



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 120328229-4949-02]**

**RIN 0648-XD902**

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; General and Angling category retention limit adjustments for Atlantic bluefin tuna (BFT); Purse Seine category BFT fishery start date.

**SUMMARY:** NMFS is adjusting the General category BFT daily retention limit for June 1 through August 31, 2015, and the Angling category BFT daily retention limit for the remainder of 2015. In addition, NMFS is announcing July 6, 2015, as the start date for this year's Purse Seine category fishery. The General category daily retention limit is adjusted to four large medium or giant BFT. This adjustment applies to Atlantic tunas General category (commercial) permitted vessels and HMS Charter/Headboat category permitted vessels when fishing commercially for BFT. The Angling category daily retention limit is adjusted to: two school BFT and one large school/small medium BFT per vessel per day/trip for charter vessels (i.e., those with HMS Charter/Headboat permits when fishing recreationally); and one school BFT and one large school/small medium BFT per vessel per day/trip for private vessels (i.e., those with HMS Angling category permits). These retention limits are effective in all areas, except for the

Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. These actions are based on consideration of the applicable regulatory determination criteria.

**DATES:** The Angling category retention limit is effective [*insert date 3 calendar days after the date of filing for public inspection with the Office of the Federal Register*] through December 31, 2015. The General category retention limit is effective June 1, 2015, through August 31, 2015. The Purse Seine category fishery will start July 6, 2015, and continue through December 31, 2015.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, 978-281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The currently codified baseline U.S. quota is 923.7 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the

Northeast Distant Gear Restricted Area). Among other things, Amendment 7 revised the allocations to all quota categories, effective January 1, 2015. See § 635.27(a).

The 2015 BFT fishing year, which is managed on a calendar-year basis and subject to an annual quota, began January 1, 2015. The Angling category season opened January 1, 2015, and continues through December 31, 2015. The size classes of BFT are summarized in Table 1.

Please note that large school and small medium BFT traditionally have been managed as one size class, as described below, i.e., a limit of one large school/small medium BFT (measuring 47 to less than 73 inches).

**Table 1. BFT Size Classes**

Size Class	Curved Fork Length
School	27 to less than 47 inches (68.5 to less than 119 cm)
Large school	47 to less than 59 inches (119 to less than 150 cm)
Small medium	59 to less than 73 inches (150 to less than 185 cm)
Large medium	73 to less than 81 inches (185 to less than 206 cm)
Giant	81 inches or greater (206 cm or greater)

Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT applies (§ 635.23(b)(2)). This retention limit applies to HMS Angling and to HMS Charter/Headboat category permitted vessels (when fishing recreationally for BFT). In 2014, NMFS adjusted the daily retention limit from the default level to one school BFT and one large school/small medium BFT for private vessels (i.e., those with HMS Angling category permits); and two school BFT and one large school/small medium BFT for charter vessels (i.e.,

those with HMS Charter/Headboat permits when fishing recreationally), effective May 8 through December 31 (79 FR 25707, May 6, 2014).

The General category season was open January 1 through March 31, 2015 (the "January" category time period), resumes on June 1, 2015, and continues through December 31, 2015. Unless changed, the General category daily retention limit would be the default retention limit of one large medium or giant BFT per vessel per day/trip (§ 635.23(a)(2)). The General category default retention limit applies to General category permitted vessels and to HMS Charter/Headboat category permitted vessels when fishing commercially for BFT.

For the 2014 fishing year, NMFS adjusted the General category limit from the default level of one large medium or giant BFT as follows: two large medium or giant BFT for January (78 FR 77362, December 23, 2013), four large medium or giant BFT for June through August (79 FR 30745, May 29, 2014), and four large medium or giant BFT for September through December (79 FR 50854, August 26, 2014). NMFS adjusted the daily retention limit for the 2015 January subquota period from the default level of one large medium or giant BFT to three large medium or giant BFT (79 FR 77943, December 29, 2014). In that action, NMFS also transferred 21 mt of BFT quota from the December 2015 subquota to the January 2015 subquota period.

### **Adjustment of Daily Retention Limits**

In adjusting the daily retention limits in this action, NMFS considered the factors required by regulatory criteria, as discussed in more detail, below.

Under § 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel. Under § 635.23(b)(3), NMFS may increase or decrease the Angling category retention

limit for any size class of BFT. Any adjustments to retention limits must be based on consideration of the relevant criteria provided under § 635.27(a)(8), which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue. Recreational retention limits may be adjusted separately for specific vessel type, such as private vessels, headboats, or charter vessels.

NMFS has considered these criteria and their applicability to the General category BFT retention limit for June-August 2015 and to the Angling category BFT retention limit for the remainder of 2015. These considerations include, but are not limited to, the following. Biological samples collected from BFT landed by recreational and commercial fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing

scientific studies of BFT age and growth, migration, and reproductive status. A principal consideration is the objective of providing opportunities to harvest the full Angling category quota and the June-August General category subquota without exceeding them based upon the 2006 Consolidated HMS FMP goal: “Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.” It is also important that NMFS constrain landings to BFT subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (e.g., fish caught at each age) that was assumed in the projections of stock rebuilding.

NMFS also considered the fact that it is in the process of proposing a rule that would implement and give domestic effect to the 2014 ICCAT recommendation on western Atlantic BFT management, which increased the U.S. BFT quota for 2015 and 2016 by 14 percent from the 2014 level. The domestic subquotas to be proposed in that action would result from application of the allocation process established in Amendment 7 to the increased U.S. quota. As explained below, however, the retention limits being set in this action are not dependent on those quota increases.

The currently codified Angling category quota is 168.6 mt (94.9 mt for school BFT, 69.8 mt for large school/small medium BFT, and 3.9 mt for large medium/giant BFT). If the proposed quota rule (discussed above) is finalized as proposed, the Angling category quota could be expected to increase to 195.2 mt (108.4 mt for school BFT, 82.3 mt for large school/small medium BFT, and 4.5 mt for large medium/giant BFT). The currently codified General category

quota is 403 mt. Each of the General category time periods ("January," June through August, September, October through November, and December) is allocated a portion of the annual General category quota. The codified June through August subquota is 201.5 mt. Under the proposed quota rule NMFS is preparing, the General category quota would increase to 466.7 mt and the June through August General category subquota would increase to 233.3 mt.

*Angling category daily retention limit adjustment*

In addition to the considerations that apply to both the General and Angling category retention limit adjustments, described above, NMFS has considered the regulatory determination criteria and their applicability to the Angling category BFT retention limit. These considerations include, but are not limited to, the following. Under the Angling category limits in effect for 2014 (described above), Angling category landings were approximately 112 mt (62 percent of the 182-mt subquota), with 24.7 mt of school BFT landed (26 percent of the 94.9-mt school BFT subquota). Given that the landings fell short of the available quota, that additional quota is anticipated to be available this year as a result of the 2014 ICCAT recommendation, and considering the regulatory criteria above, NMFS has determined that the Angling category retention limit applicable to participants on HMS Angling and HMS Charter/Headboat category permitted vessels should be adjusted upwards from the default level. NMFS has also concluded that implementation of separate limits for private and charter/headboat vessels remains appropriate, recognizing the different nature, socio-economic needs, and recent landings results of the two components of the recreational BFT fishery. For example, charter operators historically have indicated that a multi-fish retention limit is vital to their ability to attract customers. In addition, Large Pelagics Survey estimates indicate that charter/headboat BFT

landings averaged approximately 30 percent of recent recreational landings for 2013 through 2014, with the remaining 70 percent landed by private vessels.

Therefore, for private vessels (i.e., those with HMS Angling category permits), the limit is one school BFT and one large school/small medium BFT per vessel per day/trip (i.e., one BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). For charter vessels (i.e., those with HMS Charter/ Headboat permits), the limit is two school BFT and one large school/small medium BFT per vessel per day/trip when fishing recreationally for BFT (i.e., two BFT measuring 27 to less than 47 inches, and one BFT measuring 47 to less than 73 inches). These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing.

NMFS anticipates that the BFT daily retention limits in this action will result in landings during 2015 that would not exceed the available subquotas (both those codified and as expected to be proposed). Lower retention limits could result in substantial underharvest of the codified Angling category subquota, and increasing the daily limits further may risk exceeding the available quota, contrary to the objectives of the 2006 Consolidated HMS FMP, as amended. Further increasing the school BFT retention limit for private and charter vessels could be possible without exceeding the annual school BFT subquota (both the amount currently codified and the amount that NMFS anticipates proposing in the quota rule shortly), given that the 2014 Angling category landings represented 66 percent of the currently-codified Angling category quota and 57 percent of the soon-to-be-proposed Angling category quota. Nevertheless, NMFS has concluded that retention limits consistent with last year's remain appropriate given the need to not exceed the ICCAT tolerance limit on school BFT and other considerations, such as



potential effort shifts to BFT fishing as a result of current, reduced recreational retention limits for New England groundfish and striped bass. NMFS will monitor 2015 landings closely and will make further adjustments, including closure if necessary, with an inseason action if warranted.

#### *General category daily retention limit adjustment*

In addition to the considerations that apply to both the General and Angling category retention limit adjustments, described above, NMFS has considered the regulatory determination criteria and their applicability to the General category BFT retention limit for the June-August 2015 General category fishery. These considerations include, but are not limited to, the following. Commercial-size BFT are anticipated to migrate to the fishing grounds off the northeast U.S. coast by early June. Based on General category landings rates during the June through August time period over the last several years, it is highly unlikely that the June through August subquota (both the currently codified amount and the amount that will be proposed) will be filled with the default daily retention limit of one BFT per vessel, and it may not be filled at a three-BFT limit if recent patterns of BFT availability and landings rates continue. During the June-August 2013 period, under a three-fish limit, BFT landings were approximately 108 mt (50 percent of the available subquota for that period). In the June-August 2014 period, under a four-fish limit, BFT landings were approximately 107 mt (49 percent of the subquota). For the entire 2014 fishing year, 94.6 percent of the General category quota was filled.

A limit lower than four fish could result in unused quota being added to the later portion of the General category season (i.e., rolling forward to the subsequent subquota time period). Increasing the daily retention limit from the default may mitigate rolling an excessive amount of unused quota from one time-period subquota to the next. However, increasing the daily limit to

five fish may risk exceeding the available June-August subquota. NMFS has also received comment over recent years from General category fishery participants and BFT dealers that a five-fish limit at this time of year may negatively affect market prices as the fish quality tends to be lower earlier in the year. Increasing the daily retention limit to four fish will increase the likelihood that the General category BFT landings will approach, but not exceed, the annual quota, as well as increase the opportunity for catching BFT harvest during the June through August subquota period. Increasing (and sometimes maximizing) opportunity within each subquota period is also important because of the migratory nature and seasonal distribution of BFT. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for BFT may be constrained by the short amount of time the BFT are present.

Based on these considerations, NMFS has determined that a four-fish General category retention limit is warranted. It would provide a reasonable opportunity to harvest the U.S. quota of BFT, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the General category BFT fishery; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP, as amended. Therefore, NMFS increases the General category retention limit from the default limit to four large medium or giant BFT per vessel per day/trip, effective June 1, 2015, through August 31, 2015.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, during the June through August period, whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the day/trip limit of four fish applies and may not be exceeded upon landing. This General category retention limit is effective

in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

These retention limit adjustments are intended to provide a reasonable opportunity to harvest the U.S. quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; and to be consistent with the objectives of the 2006 Consolidated HMS FMP, as amended. The adjustments are consistent with the quotas previously implemented and analyzed in the 2011 BFT quota final rule, as adjusted by the final rule to implement Amendment 7, and consistent with the objectives of the 2006 Consolidated HMS FMP and amendments, and are not expected to negatively impact stock health. The adjustments also are supported by the Supplemental Environmental Assessment prepared for the 2013 quota specifications and the Final Environmental Impact Statement/Regulatory Impact Review/Final Regulatory Flexibility Analysis prepared for Amendment 7.

#### *Monitoring and Reporting*

NMFS will continue to monitor the BFT fisheries closely through the mandatory landings and catch reports. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing [hmspermits.noaa.gov](https://hmspermits.noaa.gov).

HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the

water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments or closures are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. Subsequent actions, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access [hmspermits.noaa.gov](http://hmspermits.noaa.gov), for updates on quota monitoring and inseason adjustments.

#### **Purse Seine Category BFT Fishery Start Date**

Amendment 7 revised the fishery start date to be set annually by NMFS between June 1 and August 15. The start date was made more flexible to optimize fishing opportunity for Purse Seine category vessels and to minimize potential gear conflicts or the impacts of oversupply on the market.

Under § 635.27(a)(4), NMFS may start the Purse Seine category BFT fishery between June 1 and August 15. Annually, NMFS will make a determination when the Purse Seine category fishery will start, based on variations in seasonal distribution, abundance or migration patterns of BFT, cumulative and projected landings in other commercial fishing categories, the potential for gear conflicts on the fishing grounds, or market impacts due to oversupply. In the past, NMFS has received comments from fishermen that use commercial handgear expressing concern that purse seining activity may disrupt their ability to capture BFT at the surface (i.e., harpoon gear) if purse seining occurs early in the season (i.e., in the month of June) and for rod

and reel fishing if the activities are concentrated later in the season (i.e., mid-July through the fall). NMFS has also received comments expressing concern about potential oversupply of the market by purse seine vessel(s) offloading a large amount of fish at once, and, as a result, lower ex-vessel prices, particularly early in the season (i.e., the month of June) when fish quality and prices tend to be lower.

In 2004 through 2014, the Purse Seine category BFT fishery started on July 15 of each year (68 FR 74504, December 24, 2003). Since 2006, Purse Seine category landings have been low relative to available quota for the category, with no BFT harvested in 2008, 2010, and 2011.

Based on these considerations, NMFS has determined that a 2015 Purse Seine category BFT fishery start date of July 6 is warranted. The July 6 start date would alleviate issues with potential gear conflicts in June and early July (including over the July 4 holiday weekend) and concerns about market impacts caused by potential oversupply, thus balancing the needs of the Harpoon, General, and Purse Seine category fisheries. It would provide a reasonable opportunity to harvest the U.S. BFT quota, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the Purse Seine category BFT fishery; and be consistent with the objectives of the 2006 Consolidated HMS FMP, as amended. Therefore, NMFS sets the purse seine fishery start date for July 6, 2015, through December 31, 2015.

#### *Monitoring and Reporting*

NMFS will continue to monitor the Purse Seine category BFT fishery closely through the mandatory landings and catch reports. Consistent with the regulations implementing Amendment 7, purse seine vessel operators are required to use their vessel monitoring system (VMS) to report to NMFS as follows: For each purse seine set, as instructed by NMFS, the date

and area of the set, and the length of all BFT retained (actual), and the length of all BFT discarded dead or alive (approximate), must be reported within 12 hours of the completion of the retrieval of each set.

### **Classification**

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP, as amended, provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, the availability of BFT on the fishing grounds, among other considerations, adjustment to the General and Angling category BFT daily retention limits from the default levels is warranted. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. The regulations implementing the 2006 Consolidated HMS FMP, as amended, also provide the flexibility to set the Purse Seine category BFT fishery start date between June 1 and August 15 based on variations in seasonal distribution, abundance or migration patterns of BFT, cumulative and projected landings in other commercial fishing categories, the potential for gear conflicts on the fishing grounds, or market impacts due to oversupply. NMFS provides notification of retention limit adjustments and the purse seine fishery start date by publishing the notice in the **Federal Register**, e-mailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on

[hmspermits.noaa.gov](http://hmspermits.noaa.gov).

Delays in increasing these retention limits would adversely affect those HMS General, Angling, and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one school, large school, or small medium BFT per day/trip for the Angling category, or one BFT per day/trip for the General category, and may exacerbate the problem of low catch rates and quota rollovers. In addition, delays in starting the Purse Seine category BFT fishery would adversely affect those purse seine vessels that would otherwise harvest BFT during that time. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP, as amended. Purse Seine category fishermen need sufficient advance notice of the specific start date of the fishery in order to plan fishing trips, including meeting VMS requirements and arranging for observer coverage. Adjustment of the General category retention limit needs to be effective June 1, 2015, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen who have access to the fishery only during this time period. In addition, fisheries under the Angling category daily retention limit are currently underway and delaying this action would be contrary to the public interest. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under §§ 635.23(a)(4), 635.23(b)(3), and 635.27(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 12, 2015.

---

Emily H. Menashes,  
Acting Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

[FR Doc. 2015-11791 Filed: 5/12/2015 04:15 pm; Publication Date: 5/15/2015]